STATUTORY INSTRUMENTS

2019 No. 852

CARIBBEAN AND NORTH ATLANTIC TERRITORIES

The Anguilla Constitution (Amendment) Order 2019

Made - - - - 10th April 2019

Coming into force in accordance with article 1(4)

At the Court at Windsor Castle, the 10th day of April 2019

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 1(2) of the Anguilla Act 1980(**a**) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows:

Citation, construction, interpretation and commencement

1.—(1) This Order may be cited as the Anguilla Constitution (Amendment) Order 2019 and shall be construed as one with the Anguilla Constitution Order 1982(**b**) (in this Order referred to as "the principal Order").

(2) The principal Order and this Order may be cited together as the Anguilla Constitution Orders 1982 to 2019.

(3) In this Order, "the Constitution" means the Constitution set out in the Schedule to the principal Order.

(4) Subject to article 4(7), this Order comes into force on such day as the Governor, acting in his or her discretion, may appoint by proclamation published in the Official Gazette.

Amendment of references to Chief Minister in Constitution

2. The Constitution is amended in sections 23, 24, 24A, 25, 26 (including its title), 27, 28, 33, 35, 40A, 63, 65 and 66 by substituting for the words "Chief Minister", wherever they occur, the word "Premier".

Amendment of references to persons who belong to Anguilla

3. The Constitution is amended—

(a) in sections 36, 38 and 43, by substituting for the words "a person who belongs to Anguilla", wherever they occur, the words "an Anguillian";

(**a**) 1980 c. 67.
(**b**) S.I. 1982/334, as amended by S.I. 1990/587; there are other amending instruments, but none is relevant.

(b) in section 5(3)(c), by substituting for the words "does not belong to Anguilla" the words "is not Anguillian";

(c) in section 13(4)(a) by substituting for the words "do not belong to Anguilla" the words "are not Anguillian"; and

(d) in section 35, by substituting for the words "persons who belong to Anguilla" the word "Anguillians".

Amendment of the Constitution relating to nominated members of the House of Assembly

4.—(1) Section 35 of the Constitution (House of Assembly) is amended by omitting subsections (2)(d) and (3).

(2) Section 24A of the Constitution is amended by omitting the words "or nominated".

(3) The heading of section 37 of the Constitution and section 37(1) of the Constitution are amended by omitting the words "nominated or".

(4) Sections 38 and 39(1) of the Constitution are amended by substituting for the words "a nominated or" the word "an".

(5) Section 41(1) of the Constitution is amended by omitting the words "a nominated or", in both places where they occur.

(6) Section 60 of the Constitution is amended by omitting the word "nominated".

(7) This article comes into force upon the dissolution of the House of Assembly next following the commencement of this Order.

Amendment of section 23 of the Constitution

5. Section 23 of the Constitution (Executive Council) is amended—

(a) by renumbering the existing text as subsection (1); and

(b) by inserting after that text the following new subsection—

"(2) The number of Ministers referred to in subsection (1) may be increased by law but in no circumstances may the number of Ministers be increased so that the total number of Ministers exceeds a number arrived at by subtracting one from the total number of elected members of the House of Assembly and then dividing by two.".

Amendment of section 24 of the Constitution

6. Section 24 of the Constitution (appointment of Ministers) is amended by inserting after subsection (1) the following new subsections—

"(1A) If the Premier dies while in office, the Governor, acting in his or her discretion, shall appoint as the Premier the elected member of the Assembly who, in his or her judgement, is likely to command the support of a majority of the elected members of the Assembly.

(1B) Notwithstanding subsection (1), the Governor shall not appoint as Premier a person who has held office as Premier or Chief Minister during two consecutive parliamentary terms unless at least one parliamentary term has expired since he or she last held that office, and for the purposes of this subsection a parliamentary term shall be deemed to be a period commencing when the House of Assembly first meets after its dissolution at any time and terminating when the Assembly is next dissolved.".

Amendment of section 36 of the Constitution

7. Section 36(b) of the Constitution (qualifications for elected membership) is amended by adding at the end the words "or is the grandchild of grandparents at least one of whom was born in Anguilla".

Amendment of section 37 of the Constitution

8. Section 37 of the Constitution (disqualifications for elected membership) is amended—

(a) in subsection (1), by omitting paragraphs (a) and (b); and

(b) by omitting subsection (2).

Amendment of section 43 of the Constitution

9. Section 43 of the Constitution (qualifications of voters) is amended—

(a) in subsection (1), by inserting after the word "district" the words "and in the single electoral district";

(b) in subsection (1)(a), by substituting for the words "a British overseas territories citizen"(**a**) the words "an Anguillian";

(c) in subsection (2), by inserting at the end the words "apart from the single electoral district";

(d) by inserting the following new subsections—

"(3) In this section "qualifying date" means such date as may be appointed by or under any law as the date with reference to which the qualifications of persons for registration as voters, for the purpose of the election of members of the House of Assembly, are to be ascertained.

(4) In this section and section 45, "single electoral district" means the single electoral district provided for by legislation enacted under section 46(2).".

Amendment of section 45 of the Constitution

10. Section 45 of the Constitution (right to vote at elections) is amended—

(a) in subsection (1), by inserting after the words "electoral district" the words " and the single electoral district", and by substituting for the words "that district" the words "those districts"; and

(b) in subsection (2)(b) by inserting after the word "district" the words "apart from the single electoral district".

Amendment of section 46 of the Constitution

11. Section 46 of the Constitution (laws as to elections) is amended—

(a) by renumbering the existing text as subsection (1); and

(b) by inserting after that text the following new subsections—

"(2) Notwithstanding anything in this Constitution, the Legislature may enact legislation providing for—

(a) Anguilla to be a single electoral district, in addition to the single-member electoral districts into which Anguilla is divided;

(b) the number of members to be returned to the House of Assembly in elections in the single electoral district;

(c) registered voters to have the right to vote in the single electoral district in addition to their right to vote in a single-member electoral district.

(3) Subject to subsection (4), no legislation enacted under subsection (2) shall come into force before the dissolution of the House of Assembly next following its enactment.

(**a**) Section 2(3) of the British Overseas Territories Act 2002 (c. 8) provides that references to a British Dependent Territories citizen in any other enactment passed or made before the commencement of that section shall be read as a reference to a British overseas territories citizen.

(4) Provisions of any legislation enacted under subsection (2) which concern the registration of voters and other preparations for elections may be brought into force before the dissolution of the House of Assembly.".

Amendment of section 80 of the Constitution

12.—(1) The heading of section 80 of the Constitution is amended by substituting for the words "Belonger status" the words "Anguillian status".

(2) Section 80 of the Constitution is amended in subsection (1) by substituting for the words "Anguilla Belonger Commission" the words "Anguillian Status Commission".

(3) Section 80 of the Constitution is amended by substituting for subsection (2) the following subsections—

"(2) For the purposes of this Constitution a person shall be regarded as an Anguillian if that person—

(a) is a person born or adopted in or outside Anguilla and who has at least one parent or grandparent who was born or adopted in Anguilla, where such parent or grandparent is regarded as being an Anguillian by virtue of this Constitution or is regarded as belonging to Anguilla by virtue of any previous Constitution;

(b) is regarded as belonging to Anguilla by virtue of this Constitution (as in force before the commencement of the Anguilla Constitution (Amendment) Order 2019) or of any previous Constitution;

(c) is a British overseas territories citizen having been born or adopted in Anguilla or having become such a citizen by virtue of registration or naturalisation while resident in Anguilla;

(d) is domiciled in Anguilla and whose father or mother by virtue of registration or naturalisation while resident in Anguilla became a British Dependent Territories citizen at the commencement of the British Nationality Act 1981(**a**) (or would have done so but for his or her death) or so became such a citizen after the commencement of that Act;

(e) has been granted Anguillian status by the Commission on the basis that that person—

(i) is a great-grandchild of a person born in Anguilla and who is regarded as being an Anguillian by virtue of this Constitution or is regarded as belonging to Anguilla by virtue of any previous Constitution, where the great-grandchild has resided in Anguilla for a continuous period of at least five years; or

(ii) has resided in Anguilla for a continuous period of at least 15 years; or

(iii) is born in Anguilla and is a child under the age of 18 years of a person referred to in subparagraph (ii); or

(iv) is born outside Anguilla and is a child under the age of 18 years of a person referred to in subparagraph (ii), where the child has resided in Anguilla for a continuous period of at least three years; or

(v) is born in Anguilla and does not qualify under any of the foregoing provisions of this subsection, but has resided in Anguilla for a continuous period of at least ten years; or

(vi) is married to an Anguillian and has been so married for at least five years.

(3) The Commission may withdraw the status of Anguillian from any person referred to in subsection (2)(e)(ii), (2)(e)(iv) or (2)(e)(vi) if that person is convicted of an indictable offence by a court of Anguilla.

(**a**) 1981 c.61.

(4) A withdrawal of Anguillian status under subsection (3) does not prejudice the status of an Anguillian who obtained such status by virtue of a relationship to the person whose status has been withdrawn.

(5) Any reference in this section to a period of residence in Anguilla is to be construed as a reference to residing lawfully in Anguilla and not in breach of Anguilla's immigration laws and will be calculated in a manner determined by law.".

Modification of Anguilla laws

13. In any law in force in Anguilla—

(a) any reference to the Chief Minister shall be construed as a reference to the Premier;

(b) any reference to the Anguilla Belonger Commission shall be construed as a reference to the Anguillian Status Commission; and

(c) any reference to a person who belongs to Anguilla shall be construed as a reference to an Anguillian.

Transitional provision regarding office of the Premier

14. The person who, immediately before the date of commencement of this Order, holds the office of Chief Minister shall, on and after that date, hold the office of Premier in accordance with the Constitution.

Richard Tilbrook
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Constitution of Anguilla. It changes the title of Chief Minister to Premier and introduces a limit of two consecutive terms for the Premier. It substitutes the term Anguillian for a person who belongs to Anguilla, and revises the categories of people who qualify as Anguillians. It also makes some changes to the qualifications for elected membership of the House of Assembly and the qualifications of voters, and enables the establishment by legislation of an island-wide single electoral district in addition to the single-member electoral districts into which Anguilla is divided. With effect from the next dissolution of the House of Assembly, it abolishes the office of nominated member of the House of Assembly.

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